

in this regard, violated any law or intended to violate any law within the jurisdictional mandate of the Independent Counsel. The same evidence also was insufficient to establish that any other individual had violated the law or intended to do so in this regard.

B. Mr. Marceca Did Not Knowingly Make False Statements to the FBI When He Requested the Background Reports of Former White House Staff Who No Longer Required Access.

Critical to the conclusion that there was no conspiracy was the resolution of the basic allegation presented by the investigative mandate -- whether, in seeking confidential background reports from the FBI, Mr. Marceca violated any federal criminal law. The gravamen of the allegation was that, in seeking background reports from the FBI, Mr. Marceca had falsely stated to the FBI that his purpose in doing so was for determining whether the individual in question should be provided access to the White House, when in truth and in fact, as he allegedly knew, the individuals for whom he requested background reports did not require access to the White House complex. Had Mr. Marceca acted in this manner with the requisite criminal intent, his actions would have violated 18 U.S.C. § 1001 (regarding false statements).

In this instance, the investigation did find sufficient evidence to establish certain elements of the offense. There can be no doubt that Mr. Marceca requested FBI background reports for individuals who no longer required access (and were not being